



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,244	06/06/2006	Isabelle Dubois-Brugger	38624-100578	8846
23644 7590 03/10/2009 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER				
USELDING, JOHNE				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
03/10/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address : COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10552244	6/6/2006	DUBOIS-BRUGGER ET AL.	38624-100578

BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

EXAMINER

JOHN USELDING

ART UNIT	PAPER
1796	20090224

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The reply filed on 1/23/2009 is not fully responsive to the prior Office Action because: no response has been made to the art rejections present in the Final Rejection. If it is Applicants' position that their approach to responding would have been predicated on the status of the claims, i.e. finally rejected versus non-finally rejected, it is submitted that, if they questioned the propriety of the final rejection (which they clearly did), they might have contacted the Examiner to discuss this matter prior to filing a reply. Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

The applicant has argued that the Final Rejection was improper. The applicant had amended the claims and the Office was proper in the finality of the rejection. The claims were originally for a use of polyoxyalkylene polycarboxylates, which is not even a proper statutory subject matter, and then amended the claims to change the statutory subject matter to a method of making a concrete composition. This is a major change in the claimed subject matter. In the original claims the use of the polymer in the concrete composition with a particular slump value was merely an intended use of the polymer and not a positive recitation of a claim limitation. In the amended claims there is a positive recitation of a method of preparing a concrete composition with a particular slump value. Also there is an additional step of adding one or more of the polymers to the concrete that was not in the original claims. The scope of the claims has been significantly changed and therefore new art rejections are proper.

/Marc S. Zimmer/
Primary Examiner, Art Unit 1796